



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**
Division of Social Services

ROY COOPER • Governor
MANDY COHEN, MD, MPH • Secretary
MICHAEL BECKETTS, Asst. Secretary of Human Services
DREW T. PLEDGER • Chair
SOCIAL SERVICES COMMISSION

February 4, 2019

PUBLIC NOTICE

Social Services Commission Meeting
Thursday, February 7, 2019

The North Carolina Social Services Commission will convene for an emergency call meeting on Thursday, February 7, 2019 at 10:00am in room 151 of the McBryde Building on the Dorothea Dix Campus at 820 South Boylan Avenue, Raleigh, North Carolina 27603. The Commission will be reviewing several rules for renewal. Please see the rules included in this public notice.

Should you have any questions regarding the meeting, please contact Gwendolyn Waller with the Division of Social Services at (919) 527-6338 or Gwendolyn.waller@dhhs.nc.gov.

CHAPTER 67 – SOCIAL SERVICES - PROCEDURES
SUBCHAPTER 67A – GENERAL ADMINISTRATION
SECTION .0100 - ADMINISTRATION
10A NCAC 67A .0101 CONTENTS

- (a) Procedure. The rulemaking rules of the division of social services are contained in 10A NCAC 68.
- (b) Child Support Enforcement. The purpose of the child support enforcement section is to supervise a program to assure that dependent children are supported by their parents or other persons who are legally responsible for providing such support. Rules of the child support enforcement section are contained in 10A NCAC 71S.
- (c) Disability Determination. The purpose of the disability determination section is to process applications for disability benefits under Titles II and XIX of the Social Security Act.
- (d) Public Assistance. The purpose of the Public Assistance Section is to supervise the administration of the public assistance programs as designated by the Division of Social Services. Rules for these programs are found in 10A NCAC 71T through 71W.
- (e) Family Services. The purpose of the family services section is to direct, coordinate, develop, and supervise programs of social services for children and their families and for aged or disabled adults. Rules governing these services are found in 10A NCAC 70 and 71A through 71R.

*History Note: Authority G.S. 108A-25; 108A-29; 108A-29.1; 143B-10; 143B-153; 143B-138; .S.C. 301 et seq.;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;*

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF SOCIAL SERVICES • SOCIAL SERVICES COMMISSION

LOCATION: 820 S. Boylan Avenue, McBryde Building, Raleigh, NC 27603
MAILING ADDRESS: 2444 Mail Service Center, Raleigh, NC 27699-2444
www.ncdhhs.gov • TEL: 919-527-6335 • FAX: 919-334-1018

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

Amended Eff. March 1, 1990.

10A NCAC 67A .0102 SEPARATION OF SERVICES FROM INCOME MAINTENANCE

History Note: Authority G.S. 143B-153;

Eff. December 24, 1976;

Readopted Eff. October 31, 1977;

Expired Eff. October 1, 2016 pursuant to G.S. 150B-21.3A.

10A NCAC 67A .0103 STANDARDS FOR OFFICE SPACE AND FACILITIES

The purpose of this Rule is to establish standards for office space, equipment and facilities for county departments of social services including agency suboffices and special centers that will adequately and effectively meet program, staff and client needs. These requirements are supplementary to, and do not replace, Federal Confidentiality of Information requirements and any provisions in State, county or municipal building codes.

(1) Identification of Office. All social services offices shall be appropriately marked and identifiable in the community as a social services agency:

(a) Each office shall be identified by an outside sign clearly visible from the road or street.

(b) If the office is housed within a public building occupied by other agencies or units of government, the agency shall be listed on a standard building directory in a manner similar and equal to that accorded every other agency.

(2) Requirements for Physical Plant.

(a) Buildings housing social services agencies shall be certified by competent authority to be of sound and substantial construction and in compliance with state and local fire and building codes.

(b) All buildings for which site clearance began before June 3, 1977, shall meet the equal access provisions specified in Section 504 of the Rehabilitation Act of 1973 as amended.

(3) Requirements for Space. Adequate office space shall be provided for each employee. The following guidelines show the acceptable minimum range of space which will vary due to position function, special equipment and furniture needs, fixed existing conditions or the availability of separate private interviewing rooms. The staff category descriptions and recommended minimum square footages of space range are shown below:

(a) Staff Who Interview Clients In Their Offices 80

(b) Supervisors 80gement 96

(d) Staff Members Not Required to Conduct Interviews In Their Offices 56

(e) Separate Private Interviewing Rooms Adequate for Function

(4) Requirements for Privacy:

(a) Private offices shall be required for the county director and each supervisor.

(b) Private offices or interviewing room shall be available to all staff who interview clients.

(5) Requirements for Waiting Room and Reception Area. The principal location of each county department of social services shall be arranged to provide a waiting room of sufficient size to accommodate the people availing themselves of its use each day. A separate area is required for the receptionist.

(6) Requirement for Conference Room. A conference or staff training room with seating capacity adequate to accommodate the average number of people usually in attendance shall be provided for use in meetings and training sessions.

(7) Requirement for Storage Space and Confidentiality of Records. Sufficient space shall be provided for conveniently locating files and records, supplies, and forms:

(a) Files and supplies shall be accessible and convenient to staff responsible for their maintenance, use and protection.

(b) Files and records shall be adequately protected from fire, other damage and theft.

(c) Access to confidential information shall be limited to authorized personnel only.

(d) Space shall be available for storing janitorial and maintenance supplies and equipment used in maintaining the building and grounds.

(8) Requirement to Provide Office Space for Persons Who Periodically Visit the Agency on DSS Related Business. Office space shall be provided to persons who periodically visit the agency on DSS related business.

(9) Requirement for Equipment. Furnishings and equipment shall be provided to enable staff to adequately perform its duties.

History Note: Authority G.S. 108A-80; 143B-153; 45 C.F.R. 205.170(a)(b);

Eff. April 1, 1978;

Amended Eff. May 1, 1990; May 1, 1988.

10A NCAC 67A .0104 EQUAL PERCENTAGE AND DISTRIBUTION

History Note: Authority G.S. 143B-153;

Eff. July 1, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. May 1, 1990;

Expired Eff. October 1, 2016 pursuant to G.S. 150B-21.3A.

10A NCAC 67A .0105 ADMINISTRATION AND AGENCY COMPLIANCE

(a) Federal and state participation in the cost of administration may not be claimed when agencies are not in compliance with the standards set forth in 10A NCAC 67A .0103 or when the county fails to submit an acceptable plan for compliance within 90 days of notification of non-compliance.

(b) The regional director or his designated representative shall evaluate each county department of social services periodically, but not less than every three years, to determine compliance with the established standards, using form DSS-1414 for each location. The evaluation shall be triggered by information known to the Regional Office, such as changes in program regulations or staffing patterns which would affect compliance, or complaints concerning compliance issues. A county department of social services shall be deemed to be in compliance until the Regional Director determines, after evaluation, that the agency is not in compliance.

(c) At the conclusion of an evaluation, the principal reviewer shall meet with the director of the county department to discuss the findings. Following this exit conference, the principal reviewer shall prepare a written report and transmit the report to the Regional Director. If the findings of the review indicate the county department is in compliance, the Regional Director will, within 30 days of the date of the evaluation, forward a copy of the administrative review report to the agency director, the local social services board chairman, the chairman of the local board of county commissioners and the county manager under a transmittal letter indicating the agency's compliance. If the county department is not in compliance, the following steps shall be taken within 30 days of the date of the evaluation:

(1) The regional director shall send a copy of the evaluation report to the county director, the local social services board chairman, the chairman of the local board of county commissioners and the county manager:

(A) citing the specific findings of non-compliance and what is required to come into compliance;

(B) notifying the agency that it has 90 days from the receipt of the report to come into compliance in these areas or to develop and submit to the division a corrective action plan. The division is responsible for providing consultation and technical assistance regarding the areas of non-compliance to the local agency upon request; and

(C) notifying the agency that all federal and state administrative funds will be withheld should the county fail to comply or submit an acceptable plan for compliance within 90 days of notification of non-compliance.

(2) By the end of the 90 day notice period, the county department shall achieve compliance or submit a corrective action plan to the division. If the corrective action plan contains provision for construction of new facilities, construction plans, which will require the approval of the division director, must be submitted prior to construction.

(3) In the event that the county department submits a corrective action plan to the division within the 90 day notice period, the Regional Director shall review the corrective action plan to ensure that it addresses each specific finding of non-compliance, and that the implementation of the corrective action plan can be expected to bring the agency into compliance. If construction plans are submitted as part of corrective action, the Regional Director will obtain the approval of the division director.

(4) Within 30 days after receipt of the plan, the Regional Director shall either approve the plan as submitted or indicate how the county department can amend the corrective action plan in order to obtain approval. After a corrective action plan has been approved, the Regional Director shall monitor the agency's progress towards compliance during the corrective action phase, and inform the agency, the local social services board chairman, the chairman of the local board of county commissioners and the county manager of its findings in writing. If the findings indicate that the agency is not making sufficient progress towards compliance in accordance with its corrective action plan, the Regional Director shall so notify the agency, the local social services board chairman and the chairman of the local board of county commissioners in writing that the agency has an additional 60 days from receipt of the notice to achieve compliance. If the agency does not achieve compliance or make sufficient progress towards compliance in accordance with its corrective action plan within the additional 60 day period, withholding shall commence in accordance with the procedures set forth in Paragraph (c) (5) of this Rule.

(5) In the event that the county department of social services fails to submit a corrective action plan within the 90-day notice period, the division director shall, within 30 days of the above referenced notification of county authorities, recommend to the secretary the withholding of all federal and state administrative funds. If the secretary concurs with the division director's recommendation, the secretary will, within 30 days of the division director's recommendation, notify the agency director, the local social services board chairman, the chairman of the local board of county commissioners and the county manager of the decision to withhold funds. The withholding of these funds shall be retroactive to the date of the original transmittal letter signed by the Regional Director notifying the agency of non-compliance and shall continue until the requirement for a compliance plan is met. If the county department appeals the decision under the procedures outlined in Paragraph (d) of this Rule, the action to withhold funds will be deferred until the conclusion of the hearing and any subsequent appeals.

(d) A county department of social services which is not in compliance and has been notified by the secretary of the decision to withhold funds, may appeal. If an appeal is desired, the county is required under G.S. 150B-23(a), as amended by Chapter 878 of the 1987 North Carolina Session Laws, to file hearing requests for Department of Human Resources matters with the Office of Administrative Hearings.

*History Note: Authority G.S. 143B-153; 150B-23(a); 45 C.F.R. 205-170(b);
Eff. April 1, 1978;
ARRC Objection March 17, 1988;
Amended Eff. March 1, 1990; August 1, 1988.*

10A NCAC 67A .0106 CIVIL RIGHTS

For reviewing compliance of county departments of social services with civil rights requirements, a form will be supplied to county departments of social services to be completed annually by the county director or his designee. Compliance will be reviewed by the appropriate regional representative.

History Note: Authority G.S. 143B-10;

Eff. April 1, 1979.

10A NCAC 67A .0107 FORMS

(a) In order to comply with the budgeting, planning and reimbursement requirements of G.S. Chapter 108A and 45 CFR 228.17, each county department of social services shall complete all forms specified by the Department of Health and Human Services.

(b) The forms, initial service client information record, and service client information change notice, shall be completed by the case manager for each client requesting social services. All required fields must be completed and required fields not properly completed shall be considered an error and returned to the worker. Clients may refuse to provide their social security numbers and shall not be denied benefits, but the worker identification numbers of case managers are required in order to allocate costs for federal financial participation.

(c) The form, worker daily report of services to clients, shall be completed by the county services workers and division of services for the blind services workers. This form provides information to meet reporting requirements at the federal, state and local levels and will provide the basis for county reimbursement. All required fields must be completed and required fields not properly completed shall be considered an error and returned to the worker. The worker identification numbers of service workers are required in order to allocate costs for federal financial participation.

History Note: Authority G.S. 75-62; 143B-153; 45 CFR 228.17; 5 USC 552a;

Eff. August 15, 1980;

Amended Eff. September 1, 2008; December 1, 2007; March 1, 1990; January 1, 1983.

10A NCAC 67A .0108 ADVISORY TO COUNTIES REGARDING PETITION OF GARNISHMENT

The Division of Social Services shall advise county departments of social services and consolidated human services boards of any State and federal laws and regulations that restrict the garnishment of wages to recoup a fraudulent public assistance program payment as provided in G.S. 108A-25.1.

History Note: Authority S.L. 1997-497; G.S. 108A-25.1; 143B-153;

Temporary Adoption Eff. December 8, 1997;

Eff. April 1, 1999.

10A NCAC 67A .0109 STATE PUBLIC ASSISTANCE EQUALIZING FUND

History Note: Authority G.S. 108A-92; 143B-153;

Eff. March 16, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. July 1, 1991; March 1, 1990; July 1, 1980; February 15, 1979;

Repealed Eff. July 1, 2012.

SECTION .0200 - HEARING POLICY

10A NCAC 67A .0201 GENERAL

For more information concerning the notice of proposed action and appeals process, see G.S. 108A-79.

History Note: Authority G.S. 143B-153;

Eff. October 1, 1981;

Amended Eff. January 1, 1983.

10A NCAC 67A .0202 EXCEPTIONS FOR NOTIFICATION

Except as otherwise provided by applicable program specific federal regulations, the county department of social services does not need to provide notification of action to the client when:

- (1) the agency is terminating services based on factual information confirming the death of the client;
- (2) the provision of protective services to children or protective services-evaluation to adults is initiated or terminated;
- (3) the county department of social services has applied for services in behalf of an individual for whom they have custody or guardianship for adults;
- (4) the county department of social services has applied for services in behalf of an individual who is incompetent incapacitated; or
- (5) the service is terminated at the end of a period of eligibility and the recipient has not requested that the services be continued.

History Note: Authority G.S. 108A-25; 143B-153; 45 C.F.R. 205.10;

Eff. October 1, 1981;

Amended Eff. November 1, 2007.

10A NCAC 67A .0203 GOOD CAUSE FOR DELAYED HEARINGS

(a) A state appeal hearing may be delayed for as much as 10 calendar days when there is good cause.

(b) Good cause exists when:

- (1) There is a death in the appellant's family;
- (2) The appellant or someone in his family is ill;
- (3) The appellant is unable to obtain representation;
- (4) The appellant's representative has a conflict with the scheduled date;
- (5) The appellant receives a notice of action proposing a reduction or termination of assistance after the 10 work day notice expires;
- (6) The appellant is unable to obtain transportation;
- (7) The hearing officer determines that the hearing should be delayed for some other reason.

History Note: Authority G.S. 108A-79; 143B-153;

Eff. October 1, 1981;

Amended Eff. February 1, 1986.

10A NCAC 67A .0204 ATTENDANCE AT THE HEARING

Attendance at the hearing is limited to the appellant, his representative, representatives of the county department and any witnesses which the appellant or the county department wish to call upon for testimony.

History Note: Authority G.S. 108A-79; 143B-153;

Eff. October 1, 1981.

10A NCAC 67A .0205 APPEAL DECISION

(a) The hearing officer shall make a tentative decision which shall be served upon the county department and the appellant by mail. Decisions proposing to reverse the county department's action shall be sent by certified mail to the county department while decisions affirming the county department's actions will be sent by certified mail to the appellant.

(b) The county and the appellant may present oral and written argument, for and against the decision. Written argument may be submitted to or contact made with the Chief Hearing Officer to request a hearing for oral argument.

(c) If the Chief Hearing Officer is not contacted within 10 calendar days of the date of the notice of the tentative decision, the tentative decision shall become final.

(d) If the party that requested oral argument fails to appear at the hearing for oral argument, the tentative decision becomes final.

(e) A decision upholding the appellant shall be put into effect within two weeks after receipt of the final decision.

History Note: Authority G.S. 108A-79; 143B-153;

Eff. October 1, 1981;

Amended Eff. March 1, 1992; February 1, 1986.

10A NCAC 67A .0206 GOOD CAUSE FOR NOT REQUESTING HEARING AND REQUIRED TIME FRAMES

(a) Except in the food stamp program, an appellant shall request a local hearing within 60 days from the date of action unless he shows good cause. If the appellant shows good cause, the local hearing request must be made no later than the 90th day from the date of action.

(b) Except in the food stamp program, an appellant shall request a state hearing within 15 days from the date the local hearing decision is mailed unless he shows good cause. If the appellant shows good cause, the state hearing request must be made no later than the 90th day from the date of action.

(c) Good cause for not requesting a local hearing within 60 days from the date of action and for not requesting a state hearing within 15 days from the date the local decision is mailed is defined as:

- (1) Failure of the appellant to receive the notification of action to be taken on the notification of the local hearing decision;
- (2) Extended hospitalization of the appellant or spouse, child or parent of the appellant;
- (3) Failure of a representative, acting on the appellant's behalf, to meet the time frames;
- (4) Illness which results in the appellant being incompetent or unconscious and no representative has been appointed;
- (5) Illness which results in the incapacity of the appellant;
- (6) Death of the appellant or his representative;
- (7) Delay caused by the county such as failing to assist the applicant/recipient in filing an appeal, inadequately or incorrectly providing information on appeal rights or discouraging a request for appeal.

(d) The appellant shall provide evidence to substantiate good cause. Evidence may include but is not limited to:

- (1) Doctor's statement;
- (2) Hospital bill;
- (3) Written statement from the appellant's representative;
- (4) Written statement of the appellant or other individual knowledgeable about the situation.

History Note: Filed as a Temporary Adoption Eff. January 1, 1988 For a Period of 180 Days to Expire on June 28, 1988;

Authority G.S. 108A-79; 143B-153; c. 599, 1987 Session Laws; 7 C.F.R. 273.15(g);

45 C.F.R. 205.10(a)(5)(iii); 42 C.F.R. 431.221(d);

Eff. May 1, 1988;

Amended Eff. March 1, 1990.

CHAPTER 68 - SOCIAL SERVICES: RULEMAKING

SECTION .0100 – RULEMAKING: SOCIAL SERVICES COMMISSION

10A NCAC 68 .0101 PETITIONS

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Social Services Commission (hereinafter referred to as the commission) shall make his request in a petition addressed to:

Special Assistant to the Director
Division of Social Services
Department of Health and Human Services
325 North Salisbury Street
2401 Mail Service Center
Raleigh, North Carolina 27699-2401

(b) The petition shall contain the following information:

- (1) either a draft of the proposed rule or a summary of its contents;
- (2) the statutory authority for the agency to promulgate the rule;
- (3) the reasons for the proposal;
- (4) the effect of existing rules or orders;
- (5) any data supporting the proposal;
- (6) the effect of the proposed rule on existing practices in the area involved, including cost factors;
- (7) the names and addresses, if known, of those most likely to be affected by the proposed rule; and
- (8) the name and address of the petitioner.

(c) The commission or its designee shall determine, based on a study of the facts stated in the petition, whether the public interest will be served by granting the petition. The commission or its designee shall consider all the contents of the submitted petition, plus any additional information it deems relevant.

(d) Within 30 days of submission of the petition, the commission or its designee shall render a decision to deny the petition or to initiate rulemaking proceedings. If the decision is to deny the petition, the commission or its designee shall notify the petitioner in writing, stating the reasons for the denial. If the decision is to approve the petition, the commission or its designee shall initiate a rulemaking proceeding by issuing a rulemaking notice, as provided in these rules.

History Note: Authority G.S. 143B-153; 150B-16;

Eff. February 1, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0102 NOTICE

(a) Any person or agency desiring to be placed on the mailing list for commission rulemaking notices must file a request in writing, furnishing its name and mailing address, with:

Special Assistant to the Director

Division of Social Services

Department of Health and Human Services

2401 Mail Service Center

Raleigh, North Carolina 27699-2401

Persons or agencies on this mailing list will be billed twelve dollars (\$12.00) annually. Names will be deleted from the mailing list if payment is not received by June 30 each year. Any person who wishes to receive copies of the agendas only may do so by contacting the Special Assistant to the Director at the address in this Paragraph. No fee will be charged for the agenda only.

(b) Any person desiring information in addition to that provided in a particular rulemaking notice may contact:

Special Assistant to the Director

Division of Social Services

Department of Health and Human Services

2401 Mail Service Center

Raleigh, North Carolina 27699-2401

History Note: Authority G.S. 143B-153; 150B-19; 150B-21.2;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. August 3, 1992; March 1, 1990.

10A NCAC 68 .0103 HEARING OFFICER

The commission, one or more members of the commission, or one or more hearing officers designated and authorized by the commission shall be hearing officers in a rulemaking hearing.

History Note: Authority G.S. 143B-153; 150B-12;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990.

10A NCAC 68 .0104 HEARINGS

(a) Any person desiring to present data, views, or arguments orally on the proposed rule may file a request with:

Special Assistant to the Director
Division of Social Services
Department of Health and Human Resources
2401 Mail Service Center
Raleigh, North Carolina 27699-2401

Any person desiring to make an oral presentation may submit a written copy of the presentation to the Special Assistant prior to the hearing, or at the hearing.

(b) A request to make an oral presentation may contain a brief summary of the requesting person's views with respect to the subject matter, and a statement of the length of time the person intends to speak.

(c) The Special Assistant shall promptly acknowledge receipt of a request to make an oral presentation and shall inform the requesting person of any limitations deemed necessary to the end of a full and effective public hearing on the proposed rule.

(d) Any person may file a written submission containing data, comments, or arguments after publication of a rulemaking notice up to and including the day of the hearing, unless a longer period is stated in the particular notice or an extension of time is granted for good cause. A submission must clearly state the rule or proposed rule to which the comments are addressed and must also include the name and address of the person submitting it. Written submissions must be sent to:

Special Assistant to the Director
Division of Social Services
Department of Health and Human Services
Raleigh, North Carolina 27699-2401

The Special Assistant will promptly acknowledge receipt of all written submissions.

(e) The presiding officer at the hearing shall have complete control over the proceedings, including:

- (1) the responsibility of having a record made of the proceedings,
- (2) extension of any time allotments,
- (3) recognition of speakers,
- (4) prevention of repetitious presentations, and
- (5) general management of the hearing.

The presiding hearing officer shall assure that each person at the hearing is given a fair opportunity to present views, data, and comments.

History Note: Authority G.S. 143B-153; 150B-12;
Eff. February 1, 1976;
Readopted Eff. October 31, 1977;
Amended Eff. March 1, 1990.

10A NCAC 68 .0105 STATEMENT OF REASONS FOR AND AGAINST RULEMAKING DECISION

(a) Any interested person who desires from the commission a concise written statement of the principal reasons for and against the decision by the commission to adopt or reject a rule may, either prior to the decision or within 30 days thereafter, submit a request to:

Special Assistant to the Director
Division of Social Services
Department of Health and Human Services
325 North Salisbury Street
2401 Mail Service Center
Raleigh, North Carolina 27699-2401

(b) An "interested person" shall be defined as any person, as defined in G.S. 150B-2(7), whose rights, duties, or privileges might be affected by the adoption of the rule.

(c) The request must be made in writing, must contain a statement showing that the requesting person is an interested person, and must identify the rule or proposed rule involved.

(d) The commission shall issue the statement of reasons for and against its decision within 45 days after receipt of the request.

History Note: Authority G.S. 143B-153; 150B-12;

Eff. February 1, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0106 RECORD OF RULEMAKING PROCEEDINGS

A record of all rulemaking proceedings, including any petitions shall be maintained by the Special Assistant to the Director, Division of Social Services and shall be available for public inspection during regular office hours. This record shall include:

- (1) the original petition,
- (2) the notice,
- (3) all written memoranda and information submitted,
- (4) any recording or transcript of the oral hearing, and
- (5) a final draft of the rule.

History Note: Authority G.S. 143B-153; 150B-11;

Eff. February 1, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0107 FEES

A fee of ten cents (\$0.10) per page shall be charged by the Special Assistant to persons requesting material from commission records.

History Note: Authority G.S. 143B-153; 150B-11;

Eff. February 1, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0108 DECLARATORY RULINGS

(a) The director of the division shall have the power to make a declaratory ruling on the validity of a rule adopted by the director, or on the applicability of a rule or statute adopted by either the director or the commission. The commission shall have the power to make a declaratory ruling on the validity of a rule adopted by the commission.

(b) All requests for declaratory rulings shall be by written petition and shall be submitted to:

Special Assistant to the Director
Division of Social Services
Department of Health and Human Services
325 North Salisbury Street

2401 Mail Service Center
Raleigh, North Carolina 27699-2401

(c) Every request for a declaratory ruling must include the following information:

- (1) the name and address of the petitioner,
 - (2) the statute or rule to which the petition relates,
 - (3) a concise statement of the manner in which the petitioner is aggrieved by the rule or statute or its potential application to him, and
 - (4) the consequences of a failure to issue a declaratory ruling.
- (d) Whenever the person or group with the power to make a declaratory ruling believes for a good reason that the issuance of a declaratory ruling would be undesirable, that person or group may refuse to issue one. Such refusal shall be followed, within 60 days of the receipt of the petition, by the issuance of written notification to the petitioner and to the hearing office. The notice shall state the decision and the reasons therefore.
- (e) The person or group with the power to make a declaratory ruling may refuse to consider the validity of a rule and issue a declaratory ruling.
- (1) unless the petitioner shows that the circumstances are so changed since adoption of the rule that such a ruling would be warranted;
 - (2) unless the rulemaking record evidences a failure by the agency to consider specified relevant factors;
 - (3) if there has been a similar controlling factual determination in a contested case, or if the factual context being raised for a declaratory ruling was specifically considered upon adoption of the rule being questioned as evidenced by the rulemaking record; or
 - (4) if circumstances stated in the request or otherwise known to the agency show that a contested case hearing would presently be appropriate.
- (f) Where the person or group with the power to make a declaratory ruling does not deem undesirable the issuance of such a ruling, the declaratory ruling shall be issued within 60 days after receipt of the petition.
- (g) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedure as may be deemed appropriate, in the discretion of the person or group that is to issue the ruling.
- (h) The person or group that is to issue a declaratory ruling may issue notice to persons who might be affected by the ruling that written comments may be submitted or oral presentations received at a scheduled hearing.
- (i) A record of all declaratory ruling proceedings shall be maintained by the Special Assistant and shall be available for public inspection during regular business hours. This record shall contain:
- (1) the original request,
 - (2) the reasons for refusing to issue a ruling,
 - (3) all written memoranda and information submitted,
 - (4) any recording or transcript of any oral hearing, and
 - (5) a statement of the ruling.

History Note: Authority G.S. 143B-153; 150B-17;

Eff. February 1, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

SECTION .0200 - RULEMAKING: DIVISION DIRECTOR **10A NCAC 68 .0201 PETITIONS**

History Note: Authority G.S. 143B-10; 150B-16;

Eff. July 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990;

Repealed Eff. July 1, 2012.

10A NCAC 68 .0202 NOTICE

(a) Upon a determination to hold a rulemaking proceeding, either in response to a petition or otherwise, the director or his designee shall give 30 days notice to all interested parties of a public hearing on the proposed rule.

(b) Any person or agency desiring to be placed on the mailing list for the director's rulemaking notices may file a request in writing, furnishing a name and mailing address, with:

Director

Division of Social Services

Department of Health and Human Services

325 North Salisbury Street

2401 Mail Service Center

Raleigh, North Carolina 27699-2401

The request must state the subject areas within the authority of the director for which notice is requested.

(c) The director or his designee shall review its mailing list periodically and may write to any person on the list to inquire whether that person wishes to remain on the list. If no response is received, that person may be removed from the list.

(d) If practicable and appropriate, public notice of rulemaking proceedings shall be sent to community, special interest, government, trade, or professional organizations for publication.

(e) Any person desiring information in addition to that provided in a particular rulemaking notice may contact:

Director

Division of Social Services

Department of Health and Human Services

325 North Salisbury Street

2401 Mail Service Center

Raleigh, North Carolina 27699-2401

History Note: Authority G.S. 143B-10; 150B-12;

Eff. July 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0203 HEARING OFFICER

The director or one or more hearing officers designated by the director shall be hearing officers in a rulemaking hearing.

History Note: Authority G.S. 143B-10; 150B-12;

Eff. July 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0204 HEARINGS

(a) Any person desiring to make an oral presentation may submit a written copy of the presentation to the director prior to the hearing or at the hearing.

(b) Any person may file a written submission containing data, comments, or arguments after publication of a rulemaking notice up to and including the day of the hearing, unless a longer period is stated in the particular notice or an extension of time is granted for good cause. A submission must clearly state the rule or proposed rule to which the comments are addressed and must also include the name and address of the person submitting it. Written submissions must be sent to:

Director

Division of Social Services

Department of Health and Human Services

325 North Salisbury Street

2401 Mail Service Center

Raleigh, North Carolina 27699-2401

The director will promptly acknowledge receipt of all written submissions.

(c) The presiding officer at the hearing shall have complete control over the proceedings, including:

(1) the responsibility of having a record made of the proceedings,

(2) extension of any time allotments,

(3) recognition of speakers,

(4) prevention of repetitious presentations, and

(5) general management of the hearing.

The presiding hearing officer shall assure that each person at the hearing is given a fair opportunity to present views, data, and comments.

History Note: Authority G.S. 143B-10; 150B-12;

Eff. July 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0205 JUSTIFICATION OF RULEMAKING DECISION

(a) Any interested person who desires from the director a concise written statement of the principal reasons for and against the decision by the director to adopt or reject a rule may, either prior to the decision or within 30 days thereafter, submit a request to: Hearing Office

Department of Health and Human Services

325 North Salisbury Street

2401 Mail Service Center

Raleigh, North Carolina 27699-2401

(b) An "interested person" shall be defined as any person, as defined in G.S. 150B-2(7), whose rights, duties, or privileges might be affected by the adoption of the rule.

(c) The request must be made in writing, must contain a statement showing that the requesting person is an interested person, and must identify the rule or proposed rule involved.

(d) The director shall issue the statement of reasons for and against its decision within 45 days after receipt of the request.

History Note: Authority G.S. 143B-10; 150B-12(e);

Eff. July 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0206 RECORD OF RULEMAKING PROCEEDINGS

A record of all rulemaking proceedings, including any petitions received by the Director of the Division of Social Services shall be maintained by the director and shall be available for public inspection during regular office hours. This record shall include:

(1) the original petition,

(2) the notice,

(3) all written memoranda and information submitted,

(4) any recording or transcript of the oral hearing, and

(5) a final draft of the rule.

History Note: Authority G.S. 143B-10; 150B-11;

Eff. July 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0207 FEES

History Note: Authority G.S. 143B-10; 150B-11;

Eff. July 1, 1977;

Readopted Eff. October 31, 1977;

Repealed Eff. July 1, 2012.

10A NCAC 68 .0208 DECLARATORY RULINGS

The rule stated in 10A NCAC 68 .0108 shall be applicable for this Section.

History Note: Authority G.S. 143B-10; 150B-17;

Eff. July 1, 1977;

Readopted Eff. October 31, 1977.

SECTION .0300 – BOARDS OF SOCIAL SERVICES

10A NCAC 68 .0301 EMPLOYMENT OF RELATIVES OF COUNTY BOARD MEMBERS

No person shall be considered for employment in a county department of social services during the time a member of his immediate family is serving on the county board of social services or the board of county commissioners in the same county. This regulation in no way affects the status of a person who is already an employee of a county department of social services and of whose immediate family a member becomes a candidate for or is appointed or elected to the county board of social services or the board of commissioners in the same county. "Immediate family member," is for purposes of this Regulation defined as a spouse, parent, sibling, child, grandparent, grandchild, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, or nephew.

History Note: Authority G.S. 108A-1 et seq.; 143B-153;

Eff. February 1, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. March 1, 1990.

10A NCAC 68 .0302 SELECTION OF COUNTY BOARD MEMBERS BY SOCIAL SERVICES COMM

Division Regional Directors are required to name for consideration for county board membership at least one person whose name is secured from organizations, interested groups, or individuals within the county. The Commission may, however, appoint persons who are recommended through other sources.

History Note: Authority G.S. 108A-1; 108A-3; 108A-6; 143B-153;

Eff. February 1, 1976;

Readopted Eff. October 31, 1977;

Amended Eff. September 1, 1991.

10A NCAC 68 .0303 DELEGATION OF AUTHORITY BY COUNTY BOARDS

A county board of social services may delegate to the director of the county department of social services the responsibility, with respect to financial responsibility and suspected fraud, to accomplish the requirements of the AFDC, medical assistance, and special assistance programs.

History Note: Authority G.S. 108A-1 et seq.; 143B-153;

Eff. February 1, 1976;

Readopted Eff. October 31, 1977.

CHAPTER 69 – CONFIDENTIALITY AND ACCESS TO CLIENT RECORDS

SECTION .0100 – GENERAL PROVISIONS

10A NCAC 69 .0101 DEFINITIONS

As used in this Subchapter, unless the context clearly requires otherwise, the following terms have the meanings specified:

- (1) "Client" means any applicant for, or recipient of, public assistance or services, or someone who makes inquiries, is interviewed, or is or has been otherwise served to some extent by the agency. For purposes of this Subchapter, someone acting responsibly for the client in accordance with agency policy is subsumed under the definition of client.
- (2) "Agency" means the state Division of Social Services and the county departments of social services, unless separately identified.
- (3) "Client information" or "client record" means any information, whether recorded or not and including information stored in computer data banks or computer files, relating to a client which was received in connection with the performance of any function of the agency.

(4) "Director" means the head of the state Division of Social Services or the county departments of social services.

(5) "Delegated representative" means anyone designated by the director to carry out the responsibilities established by the rules in this Subchapter. Designation is implied when the assigned duties of an employee require access to confidential information.

(6) "Court order" means any oral order from a judge or a written document from a judicial official which directs explicitly the release of client information.

(7) "Service provider" means any public or private agency or individual from whom the agency purchases services, or authorizes the provision of services provided or purchased by other divisions of the Department of Human Resources.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0102 INFORMATION FROM OTHER AGENCIES

If the agency receives information from another agency or individual, then such information shall be treated as any other information generated by the state Division of Social Services or the county departments of social services, and disclosure thereof will be governed by any condition imposed by the furnishing agency or individual.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

SECTION .0200 – SAFEGUARDING CLIENT INFORMATION

10A NCAC 69 .0201 CONFLICT OF LAWS

Whenever there is inconsistency between federal or state statutes or regulations specifically addressing confidentiality issues, the agency shall abide by the statute or regulation which provides more protection for the client.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981;

Amended Eff. March 1, 1990.

10A NCAC 69 .0202 OWNERSHIP OF RECORDS

(a) All client information contained in any records of the agency is the property of the agency, and employees of the agency shall protect and preserve such information from dissemination except as provided by the rules of this Subchapter.

(b) Original client records may not be removed from the premises by individuals other than authorized staff of the agency, except by an order of the court.

(c) The agency shall be allowed to destroy records in accordance with Record Retention Schedules promulgated by the Division of Archives and History, rules of the Division of Social Services, and state and federal statutes and regulations.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981.*

10A NCAC 69 .0203 SECURITY OF RECORDS

(a) The agency shall provide a secure place with controlled access for the storage of records. Only employees, students, volunteers or other individuals who must access client information in order to carry out duties assigned or approved by the agency shall be authorized access to the storage area.

(b) Only authorized individuals may remove a record from the storage area and the authorizing individual shall be responsible for the security of the record until it is returned to the storage area.

(c) The agency shall establish procedures to prevent accidental disclosure of client information from automated data processing systems.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;*

Amended Eff. March 1, 1990.

10A NCAC 69 .0204 ASSURANCE OF CONFIDENTIALITY

The director shall assure that all authorized individuals are informed of the confidential nature of client information and shall disseminate written policy to and provide training for all persons with access to client information.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981.*

10A NCAC 69 .0205 LIABILITY OF PERSONS WITH ACCESS TO CLIENT INFORMATION

(a) Individuals employed by the agency and governed by the State Personnel Act are subject to suspension, dismissal or disciplinary action for failure to comply with the rules of this Subchapter.

(b) Individuals other than employees, including volunteers and students who are agents of the Department of Health and Human Services who have access to client information and fail to comply with the rules in this Subchapter shall be denied access to confidential information and may be subject to dismissal or termination of relationship with the agency.

(c) Individuals other than employees but including volunteers and students who are agents of the Department of Health and Human Services and who have access to client information shall be liable in the same manner as employees.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;*

Amended Eff. February 1, 1986.

SECTION .0300 - CLIENT ACCESS TO RECORDS

10A NCAC 69 .0301 RIGHT OF ACCESS

Confidentiality of information about himself is the right of the client. Upon written or verbal request the client shall have access to review or obtain without charge a copy of the information in his records with the following exceptions:

(1) information that the agency is required to keep confidential by state or federal statutes or regulations.

(2) confidential information originating from another agency as provided for in Rule .0102 of this Subchapter.

(3) information that would breach another individual's right to confidentiality.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981.*

10A NCAC 69 .0302 PROMPT RESPONSE TO REQUEST

The agency shall provide access as defined in Rule .0301 of this Subchapter as promptly as feasible but no more than five working days after receipt of the request.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981.*

10A NCAC 69 .0303 WITHHOLDING INFORMATION FROM THE CLIENT

(a) When the director or a delegated representative determines on the basis of the exceptions in Rule .0301 of this Subchapter to withhold information from the client record, this reason shall be documented in the client record.

(b) The director or a delegated representative must inform the client that information is being withheld, and upon which of the exceptions specified in Rule .0301 of this Subchapter the decision to withhold the information is based. If confidential information originating from another agency is being withheld, the client shall be referred to that agency for access to the information.

(c) When a delegated representative determines to withhold client information, the decision to withhold shall be reviewed by the supervisor of the person making the initial determination.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0304 PROCEDURES FOR REVIEW OF RECORDS

The director or his delegated representative shall be present when the client reviews the record. The director or his delegated representative must document in the client record the review of the record by the client.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. September 6, 2016.

10A NCAC 69 .0305 CONTESTED INFORMATION

A client may contest the accuracy, completeness or relevancy of the information in his record. A correction of the contested information, but not the deletion of the original information if it is required to support receipt of state or federal financial participation, shall be inserted in the record when the director or his delegated representative concurs that such correction is justified. When the director or his delegated representative does not concur, the client shall be allowed to enter a statement in the record. Such corrections and statements shall be made a permanent part of the record and shall be disclosed to any recipient of the disputed information. If a delegated representative decides not to correct contested information, the decision not to correct shall be reviewed by the supervisor of the person making the initial decision.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0306 REVIEW OF RECORD BY PERSONAL REPRESENTATIVES

Upon written request from the client, his personal representative, including an attorney, may have access to review or obtain without charge, a copy of the information in his record. The client may permit the personal representative to have access to his entire record or may restrict access to certain portions of the record. Rules .0301 through .0305 of this Subchapter shall apply.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

SECTION .0400 - RELEASE OF CLIENT INFORMATION

10A NCAC 69 .0401 PROCEDURE FOR OBTAINING CONSENT FOR RELEASE OF INFORMATION

(a) As a part of the application process for public assistance or services, the client shall be informed of the need for and give consent to the release of information necessary to verify statements to establish eligibility.

(b) As a part of the application process for Aid to Families with Dependent children, and State or County Special Assistance for Adults, the client shall be informed of the requirement for listing of the public assistance recipient's name, address, and amount of the monthly grant in a public record open to public inspection during the regular office hours of the county auditor.

(c) No individual shall release any client information which is owned by the state Division of Social Services or the county departments of social services, or request the release of information regarding the client from other agencies or

individuals without obtaining a signed consent for release of information. Disclosure without obtaining consent shall be in accordance with Section .0500 of this Subchapter.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981;

Amended Eff. March 1, 1990.

10A NCAC 69 .0402 CONSENT FOR RELEASE OF INFORMATION

(a) The consent for release of information shall be on a form provided by the state Division of Social Services or shall contain the following:

- (1) name of the provider and the recipient of the information;
- (2) the extent of information to be released;
- (3) the name and dated signature of the client;
- (4) a statement that the consent is subject to revocation at any time except to the extent that action has been taken in reliance on the consent;
- (5) length of time the consent is valid.

(b) The client may alter the form to contain other information which may include but is not limited to:

- (1) a statement specifying the date, event or condition upon which the consent may expire even if the client does not expressly revoke the consent;
- (2) specific purpose for the release.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0403 PERSONS WHO MAY CONSENT TO THE RELEASE OF INFORMATION

The following persons may consent to the release of information:

- (1) the client;
- (2) the legal guardian if the client has been adjudicated incompetent;
- (3) the county department of social services if the client is a minor and in the custody of the county department of social services.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0404 INFORMED CONSENT

Prior to obtaining a consent for release of information, the delegated representative shall explain the meaning of informed consent. The client shall be told the following:

- (1) contents to be released;
- (2) that there is a definite need for the information;
- (3) that the client can give or withhold the consent and the consent is voluntary;
- (4) that there are statutes and regulations protecting the confidentiality of the information.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0405 PERSONS DESIGNATED TO RELEASE CLIENT INFORMATION

Directors and their delegated representatives, as defined, may release client information in accordance with rules in Section .0400 of this Subchapter.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0406 DOCUMENTATION OF RELEASE

Whenever client information is released on the basis of a consent as defined in .0402 of this Subchapter, the director or delegated representative shall place a copy of the signed consent in the appropriate client record.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981.*

SECTION .0500 - DISCLOSURE OF CLIENT INFORMATION WITHOUT CLIENT CONSENT

10A NCAC 69 .0501 DISCLOSURE WITHIN THE AGENCY

(a) Client information from the public assistance record may be disclosed without the consent of the client under the following circumstances:

- (1) to other employees of the county department of social services for purposes of making referrals, supervision, consultation or determination of eligibility;
- (2) to other county departments of social services when the client moves to that county and requests public assistance;
- (3) between the county departments of social services and the state Division of Social Services for purposes of supervision and reporting.

(b) Client information from the service record may be disclosed without the consent of the client under the following circumstances:

- (1) to other employees of the county department of social services for purposes of making referrals, supervision, consultation or determination of eligibility;
- (2) to another county department of social services when that county department of social services is providing services to a client who is in the custody of the county department of social services;
- (3) to another county department of social services to the extent necessary to facilitate the provision of a service requested by referring county department of social services;
- (4) between the county department of social services and the state Division of Social Services for purposes of supervision and reporting.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;*

Amended Eff. March 1, 1990.

10A NCAC 69 .0502 DISCLOSURE FOR THE PURPOSE OF RESEARCH

Client information may be disclosed without the consent of the client to individuals requesting approval to conduct studies of client records, provided such approval is requested in writing and the written request will specify and be approved on the basis of:

- (1) an explanation of how the findings of the study have potential for expanding knowledge and improving professional practices;
- (2) a description of how the study will be conducted and how the findings will be used;
- (3) a presentation of the individual's credentials in the area of investigation;
- (4) a description of how the individual will safeguard information;
- (5) an assurance that no report will contain the names of individuals or any other information that makes individuals identifiable.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981.*

10A NCAC 69 .0503 DISCLOSURE FOR PURPOSES OF ACCOUNTABILITY

Client information may be disclosed without the consent of the client to federal, state, or county employees for the purpose of monitoring, auditing, evaluating, or facilitating the administration of other state and federal programs, provided that the need for the disclosure of confidential information is justifiable for the purpose and that adequate safeguards are maintained to protect the information from re-disclosure.

*History Note: Authority G.S. 108A-80; 143B-153;
Eff. October 1, 1981;*

Amended Eff. March 1, 1990.

10A NCAC 69 .0504 DISCLOSURE PURSUANT TO OTHER LAWS

Client information may be disclosed without the consent of the client for purposes of complying with other state and federal statutes and regulations.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0505 DISCLOSURE PURSUANT TO A COURT ORDER

Client information may be disclosed without the consent of the client in response to a court order, as defined.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0506 NOTICE TO CLIENT

When information is released without the client's consent, the client shall be informed to the extent possible, of the disclosure. The method of informing the client of the disclosure shall be documented in the appropriate record.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0507 DOCUMENTATION OF DISCLOSURE

Whenever client information is disclosed in accordance with Section .0500 of this Subchapter, the director or delegated representative shall ensure that documentation of the disclosure is placed in the appropriate client record.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0508 PERSONS DESIGNATED TO DISCLOSE INFORMATION

Directors and their delegated representatives, as defined, may disclose client information in accordance with Section .0500 of this Subchapter.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

SECTION .0600 - SERVICE PROVIDERS

10A NCAC 69 .0601 INFORMATION NEEDS OF SERVICE PROVIDERS

(a) Agencies may disclose client information to other service providers, as defined, only to the extent necessary to determine the service requirements and to meet the needs of the client, and to the extent necessary to provide eligibility information for reporting purposes.

(b) The client shall be informed and consent to the disclosure of this information in accordance with the rules of this Subchapter.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0602 CONTRACT RESTRICTION

As a part of every contract for the purchase of services, the service provider will agree to restrict the use or disclosure of information obtained in connection with the administration of the state's programs for the provision of services concerning clients to purposes directly connected with the administration of the service program.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0603 ASSURANCE OF CONFIDENTIALITY

- (a) The county department of social services shall disseminate written policy and assure that all private agency and individual service providers from whom they purchase services are informed of the confidential nature of client information.
- (b) Public agency service providers shall abide by written policy promulgated by their cognizant state agency, if any. If written policy has not been issued, Paragraph (a) of this Rule shall apply.
- (c) The Department of Human Resources shall disseminate written policy and assure that all service providers from whom the county departments of social services authorize the provision of services to clients understand the confidential nature of client information.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0604 OWNERSHIP OF RECORDS

- (a) All client information contained in records of the service provider is the property of the service provider, and the service provider and employees of the service provider shall protect and preserve such information in accordance with the terms of their contract.

- (b) Any information furnished by the county department of social services shall be protected from re-disclosure.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

10A NCAC 69 .0605 LIABILITY OF SERVICE PROVIDERS

Failure to comply with the rules in Section .0600 of this Subchapter shall constitute a breach of contract and shall be grounds to terminate the contract.

History Note: Authority G.S. 108A-80; 143B-153;

Eff. October 1, 1981.

CHAPTER 72 – EDUCATIONAL ASSISTANCE

SECTION .0100 - GENERAL

10A NCAC 72 .0101 SCOPE

The rules in this Chapter implement the North Carolina Child Welfare Postsecondary Educational Support Program established by section 10.34(a) of Session Law 2007-323.

History Note: Authority S.L. 2007-323, s. 10.34;

Eff. June 1, 2008.

10A NCAC 72 .0102 DEFINITIONS

Unless the context indicates some other meaning, the words and terms below have the following meanings:

- (1) "Academic Year" means a period of time in which a student normally completes the equivalent of at least two semesters or three quarters of academic work.
- (2) "Approved Institution" means one of the branches of the University of North Carolina or one of the North Carolina community colleges.
- (3) "Case Management Services" are a set of services provided by an agency contracting with the North Carolina Division of Social Services (DSS) for participating students and their families which are designed to support the student's successful postsecondary education experience. Such services include:
 - (a) processing and accepting applications for the program;
 - (b) certifying each eligible student and the amount of the Eligible Student's Scholarship and communicating this information to the North Carolina State Education Assistance Authority to authorize release of funds;
 - (c) compiling accurate databases of resources in the students' academic communities that can help students succeed in school;
 - (d) providing or arranging for counseling regarding academic issues as well as other concerns that may affect the performance of the student;
 - (e) communicating with and advising students on academic issues;
 - (f) providing consistent, regular contact with students throughout their postsecondary experience;
 - (g) being available to students experiencing crisis;
 - (h) providing or arranging for emergency housing up to two weeks for students who have no safe place to live when school is out of session;

- (i) if allowed by the student, being available to consult with student's families and staff of local Departments of Social Services regarding student's postsecondary experiences;
 - (j) monitoring grades and the individual's course of study, and evaluating progress toward goal achievement;
 - (k) maintaining records for each individual student regarding their academic progress and assistance provided; and
 - (l) providing quarterly program reports of case management services to the contract administrator at the Division of Social Services.
- (4) "Cost of Attendance" Costs of attendance are defined by the Higher Education Act of 1965(20 U.S.C. 108711), which includes tuition, fees, room, board, supplies, transportation, and personal expenses. This amount is established by each institution. This grant is limited to cost of attendance less other grants or scholarships from federal, state, or other sources.
- (5) "Education Training Voucher" (ETV) means the Federal scholarship program funded by the John Chafee Foster Care Independence Act 42 U.S.C. 677, which benefits young adults who were in the custody of the Department of Social Services at or after age 17 or were adopted from public foster care after the age of 12.
- (6) "Eligible Student" means a student who:
- (a) has completed the requirements for secondary education (high school diploma or GED) and has not yet achieved his or her 26th birthday;
 - (b) is pursuing an undergraduate degree, diploma, or certificate at an approved institution on at least a half-time basis;

(c) was in the custody of a North Carolina local Department of Social Services on his or her 18th birthday, or was adopted from the North Carolina foster care system on or after his or her 12th birthday;

(d) is making satisfactory progress toward completion of the course of undergraduate study as defined in Rule .0201 of this Chapter.

(7) "Fiscal Year" means each annual period which begins on July 1 in any calendar year and ends on June 30 the following calendar year.

(8) "Higher Education Act" means Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. 1070, et seq.

(9) "Matriculated Status" means the student is recognized by the approved institution as a student in a defined program of study leading to an associate's degree, baccalaureate degree, diploma or certificate.

(10) "Pell Grant" means the needs based scholarship program administered by the federal government to benefit low income baccalaureate and postgraduate students.

(11) "Program" means the Postsecondary Educational Support Scholarship program (NC Reach) established by Section 10.34(a) of Session Law 2007-323.

(12) "Residence Manual" means the most current edition of *A Manual to Assist the Public Higher Education Institutions of North Carolina in the Matter of Student Residence Classification for Tuition Purposes* as adopted by the Board of Governors of the University of North Carolina.

(13) "Scholarship" means an award for education awarded to an eligible student under the program.

History Note: Authority S.L. 2007-323, s. 10.34;

Eff. June 1, 2008.

SECTION .0200 - STUDENT ELIGIBILITY FOR SCHOLARSHIPS, SATISFACTORY PROGRESS REQUIREMENTS

10A NCAC 72 .0201 GENERAL RULE

Subject to availability of funds a student may receive a scholarship for an academic year if the approved institution at which the student is enrolled, or admitted for enrollment, determines that the student:

(1) Meets all of the eligibility requirements established in this Chapter;

(2) Is a North Carolina resident for tuition purposes under G.S. 116-143.1 and the Residence Manual;

(3) Has complied with the registration requirements of the Military Selective Service Act (50 U.S.C. A. 451 et seq.) or is exempt from registration requirements;

(4) Is not in default, or does not owe a refund, under any federal or state loan or grant program.

History Note: Authority S.L. 2007-323, s. 10.34;

Eff. June 1, 2008.

10A NCAC 72 .0202 SATISFACTORY PROGRESS REQUIREMENT

An eligible student may receive a scholarship for the eligible student's subsequent academic years provided that, for each subsequent academic year, the eligible student meets the standards by which the approved institution measures a student's satisfactory academic progress toward completion of a program of study for the purposes of determining eligibility for federal financial aid under the Higher Education Act. Any eligible student who is placed on academic probation may continue to receive a NC Reach scholarship for one additional semester if the approved institution allows the student to continue in matriculated status. If the student fails to make satisfactory academic progress in the semester or term subsequent to the term in which he received academic probation, NC Reach assistance shall be discontinued for at least one full academic year.

History Note: Authority S.L. 2007-323, s. 10.34;

Eff. June 1, 2008.

10A NCAC 72 .0203 LIMITATION OF AWARD

An eligible student may not receive an NC Reach scholarship for more than a total of four school years, to include the Spring and Fall terms and summer school.

*History Note: Authority S.L. 2007-323, s. 10.34;
Eff. June 1, 2008.*

SECTION .0300 - APPLICATION

10A NCAC 72 .0301 SCHOLARSHIP APPLICATION PROCEDURES

- (a) Method of Applying for Scholarships. Students shall apply directly for NC Reach through the agency which contracts with the Division of Social Services to provide case management services for the NC Reach recipients.
- (b) Determination of eligible students. Eligibility for the NC Reach program shall be verified by employees of the custodial county Department of Social Services or the State Division of Social Services.
- (c) Scholarships within an Academic Year. An Eligible Student may receive a scholarship for one or more semesters or quarters, provided that the eligible student's total financial aid from the Education Training Voucher and Pell Grant and the NC Reach scholarship does not exceed the total cost of attendance.
- (d) Denial of Scholarship Applications. The Case Management contractor shall notify any student whose application is denied regarding the reasons for the denial.

History Note: Authority S.L. 2007-323, s. 10.34;

Eff. June 1, 2008.

CHAPTER 72 – EDUCATIONAL ASSISTANCE

SECTION .0100 - GENERAL

10A NCAC 72 .0101 SCOPE

The rules in this Chapter implement the North Carolina Child Welfare Postsecondary Educational Support Program established by section 10.34(a) of Session Law 2007-323.

*History Note: Authority S.L. 2007-323, s. 10.34;
Eff. June 1, 2008.*

10A NCAC 72 .0102 DEFINITIONS

Unless the context indicates some other meaning, the words and terms below have the following meanings:

- (1) "Academic Year" means a period of time in which a student normally completes the equivalent of at least two semesters or three quarters of academic work.
- (2) "Approved Institution" means one of the branches of the University of North Carolina or one of the North Carolina community colleges.
- (3) "Case Management Services" are a set of services provided by an agency contracting with the North Carolina Division of Social Services (DSS) for participating students and their families which are designed to support the student's successful postsecondary education experience. Such services include:
 - (a) processing and accepting applications for the program;
 - (b) certifying each eligible student and the amount of the Eligible Student's Scholarship and communicating this information to the North Carolina State Education Assistance Authority to authorize release of funds;
 - (c) compiling accurate databases of resources in the students' academic communities that can help students succeed in school;
 - (d) providing or arranging for counseling regarding academic issues as well as other concerns that may affect the performance of the student;
 - (e) communicating with and advising students on academic issues;
 - (f) providing consistent, regular contact with students throughout their postsecondary experience;
 - (g) being available to students experiencing crisis;
 - (h) providing or arranging for emergency housing up to two weeks for students who have no safe place to live when school is out of session;

- (i) if allowed by the student, being available to consult with student's families and staff of local Departments of Social Services regarding student's postsecondary experiences;
 - (j) monitoring grades and the individual's course of study, and evaluating progress toward goal achievement;
 - (k) maintaining records for each individual student regarding their academic progress and assistance provided; and
 - (l) providing quarterly program reports of case management services to the contract administrator at the Division of Social Services.
- (4) "Cost of Attendance" Costs of attendance are defined by the Higher Education Act of 1965(20 U.S.C. 108711), which includes tuition, fees, room, board, supplies, transportation, and personal expenses. This amount is established by each institution. This grant is limited to cost of attendance less other grants or scholarships from federal, state, or other sources.
- (5) "Education Training Voucher" (ETV) means the Federal scholarship program funded by the John Chafee Foster Care Independence Act 42 U.S.C. 677, which benefits young adults who were in the custody of the Department of Social Services at or after age 17 or were adopted from public foster care after the age of 12.
- (6) "Eligible Student" means a student who:
- (a) has completed the requirements for secondary education (high school diploma or GED) and has not yet achieved his or her 26th birthday;
 - (b) is pursuing an undergraduate degree, diploma, or certificate at an approved institution on at least a half-time basis;

(c) was in the custody of a North Carolina local Department of Social Services on his or her 18th birthday, or was adopted from the North Carolina foster care system on or after his or her 12th birthday;

(d) is making satisfactory progress toward completion of the course of undergraduate study as defined in Rule .0201 of this Chapter.

(7) "Fiscal Year" means each annual period which begins on July 1 in any calendar year and ends on June 30 the following calendar year.

(8) "Higher Education Act" means Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C. 1070, et seq.

(9) "Matriculated Status" means the student is recognized by the approved institution as a student in a defined program of study leading to an associate's degree, baccalaureate degree, diploma or certificate.

(10) "Pell Grant" means the needs based scholarship program administered by the federal government to benefit low income baccalaureate and postgraduate students.

(11) "Program" means the Postsecondary Educational Support Scholarship program (NC Reach) established by Section 10.34(a) of Session Law 2007-323.

(12) "Residence Manual" means the most current edition of *A Manual to Assist the Public Higher Education Institutions of North Carolina in the Matter of Student Residence Classification for Tuition Purposes* as adopted by the Board of Governors of the University of North Carolina.

(13) "Scholarship" means an award for education awarded to an eligible student under the program.

History Note: Authority S.L. 2007-323, s. 10.34;

Eff. June 1, 2008.

SECTION .0200 - STUDENT ELIGIBILITY FOR SCHOLARSHIPS, SATISFACTORY PROGRESS REQUIREMENTS

10A NCAC 72 .0201 GENERAL RULE

Subject to availability of funds a student may receive a scholarship for an academic year if the approved institution at which the student is enrolled, or admitted for enrollment, determines that the student:

(1) Meets all of the eligibility requirements established in this Chapter;

(2) Is a North Carolina resident for tuition purposes under G.S. 116-143.1 and the Residence Manual;

(3) Has complied with the registration requirements of the Military Selective Service Act (50 U.S.C. A. 451 et seq.) or is exempt from registration requirements;

(4) Is not in default, or does not owe a refund, under any federal or state loan or grant program.

History Note: Authority S.L. 2007-323, s. 10.34;

Eff. June 1, 2008.

10A NCAC 72 .0202 SATISFACTORY PROGRESS REQUIREMENT

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SECTION .0300 - APPLICATION

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